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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,681	07/31/2001	Dai Sugimoto	SON-1408/DIV	1828

7590

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EXAMINER

JACKSON JR, JEROME

ART UNIT

PAPER NUMBER

2815

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,681

Applicant(s)

SUGIMOTO ET AL.

Examiner

Jerome Jackson Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,2,5,6,16,18,19,21-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fukusho '609.

The previous rejection still applies. The new limitations to claim 1 are cosmetic and do not structurally distinguish the claims over '609 as previously applied. New claims 21-25 are rejected because these dimensions are typical for light shielding layers in the art and would have been obvious thicknesses for the light shielding layers of Fukusho as applied in the rejection.

Claims 1-6,16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higashide in view of Ueno.

The previous rejection still applies. The new limitations and claims do not structurally distinguish the art as applied because the double layer structure of Higashide with Ueno maintains a satisfactory light shielding property as claimed.

Applicant's arguments filed 20 November 2002 have been fully considered but they are not persuasive. Applicant's arguments that Fukusho does not meet the claim limitations is unpersuasive. As stated previously, it is well established by the recited caselaw that patentability of a product by process claim is determined by the final structure rather than the process of producing it. There is a double layer light shield in Fukusho and there are no concrete limitations in claim 1 such as magnitudes of light shielding, chemical compositions of layers, etc. which would unequivocally structurally

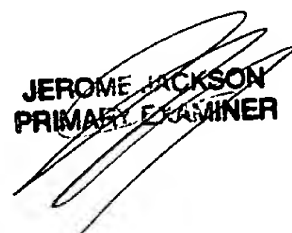
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distinguish claim 1 over Fukusho. The product by process language is insufficient to structurally distinguish over Fukusho. Applicant's reference to the specification and alleged properties of the claimed structure are unpersuasive of patentability.

Where are these exact properties claimed in claim 1 ? Where is any mention of exact adherence magnitudes in claim 1, or exact layer composition in claim 1. They are nonexistent in claim 1 and applicant's arguments are unpersuasive of patentability. Likewise applicant's arguments with regard to Higashide and Ueno are unconvincing. Applicant's argument regarding the Ueno reference is unpersuasive because there is no statement that the present application at the time it was made was assigned to Sony at the same time the Ueno invention was assigned to Sony. Applicant makes a statement that the present application was assigned to Kansai Paint.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


JEROME JACKSON
PRIMARY EXAMINER